

AMENDED IN SENATE APRIL 28, 2009

AMENDED IN SENATE APRIL 15, 2009

SENATE BILL

No. 603

Introduced by Senator Padilla

(Principal coauthor: Assembly Member Beall)

(Coauthors: Senators DeSaulnier, Oropeza, and Romero)

February 27, 2009

An act to amend ~~Section~~ *Sections 22972 and 22973* of, and to add Section 22973.3 to, the Business and Professions Code, relating to retail tobacco sales.

LEGISLATIVE COUNSEL'S DIGEST

SB 603, as amended, Padilla. Retail tobacco sales: licenses.

The California Cigarette and Tobacco Products Licensing Act of 2003 requires a retailer to obtain a license from the State Board of Equalization to engage in the sale of cigarette and tobacco products in this state, and requires retailer licensees to pay a one-time license fee of \$100, no renewal fee, and a reinstatement fee of \$100 if the license is renewed after lapse, and authorizes the board to suspend or revoke the license of any retailer of tobacco products that is in violation of the act.

Existing law requires all moneys collected pursuant to the act to be deposited in the Cigarette and Tobacco Products Compliance Fund, which is available for appropriation by the Legislature solely for the purpose of implementing, enforcing, and administering the California Cigarette and Tobacco Products Licensing Act of 2003.

This bill would limit the number of new retail licenses available, as specified. The bill would set the renewal fee at \$100.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 22972 of the Business and Professions*
2 *Code is amended to read:*

3 22972. (a) Commencing June 30, 2004, a retailer shall have
4 in place and maintain a license to engage in the sale of cigarettes
5 or tobacco products. A retailer that owns or controls more than
6 one retail location shall obtain a separate license for each retail
7 location, but may submit a single application for those licenses.

8 (b) The retailer shall conspicuously display the license at each
9 retail location in a manner visible to the public.

10 (c) A license is not assignable or transferable. A person who
11 obtains a license as a retailer who ceases to do business as specified
12 in the license, or who never commenced business, or whose license
13 is suspended or revoked, shall immediately surrender the license
14 to the board.

15 (d) A license shall be valid for a 12-month period *upon issuance*
16 *of the licence pursuant to Section 22973.1, unless surrendered,*
17 *suspended, or revoked prior to the end of the 12-month period,*
18 *and shall may be renewed annually upon payment of the fee*
19 *prescribed in subdivision (d) of Section 22973.*

20 (e) *Any subsequent license issued to a retailer that owns or*
21 *controls more than one retail location shall be valid for a partial*
22 *year period from the start date of the new license to the end of the*
23 *12-month period of the initial license. After a partial year period,*
24 *all licenses held by a retailer that owns or controls more than one*
25 *retail local shall be valid for the same 12-month period as a*
26 *retailer's initial license.*

27 ~~**SECTION 1.**~~

28 **SEC. 2.** Section 22973 of the Business and Professions Code
29 is amended to read:

30 22973. (a) An application for a license shall be filed on or
31 before April 15, 2004, on a form prescribed by the board and shall
32 include the following:

33 (1) The name, address, and telephone number of the applicant.

34 (2) The business name, address, and telephone number of each
35 retail location. For applicants who control more than one retail

1 location, an address for receipt of correspondence or notices from
2 the board, such as a headquarters or corporate office of the retailer,
3 shall also be included on the application and listed on the license.
4 Citations issued to licensees shall be forwarded to all addressees
5 on the license.

6 (3) A statement by the applicant affirming that the applicant
7 has not been convicted of a felony and has not violated and will
8 not violate or cause or permit to be violated any of the provisions
9 of this division or any rule of the board applicable to the applicant
10 or pertaining to the manufacture, sale, or distribution of cigarettes
11 or tobacco products. If the applicant is unable to affirm this
12 statement, the application shall contain a statement by the applicant
13 of the nature of any violation or the reasons that will prevent the
14 applicant from complying with the requirements with respect to
15 the statement.

16 (4) If any other licenses or permits have been issued by the
17 board or the Department of Alcoholic Beverage Control to the
18 applicant, the license or permit number of those licenses or permits
19 then in effect.

20 (5) A statement by the applicant that the contents of the
21 application are complete, true, and correct. Any person who signs
22 a statement pursuant to this subdivision that asserts the truth of
23 any material matter that he or she knows to be false is guilty of a
24 misdemeanor punishable by imprisonment of up to one year in the
25 county jail, or a fine of not more than one thousand dollars
26 (\$1,000), or both the imprisonment and the fine.

27 (6) The signature of the applicant.

28 (7) Any other information the board may require.

29 (b) The board may investigate to determine the truthfulness and
30 completeness of the information provided in the application. The
31 board may issue a license without further investigation to an
32 applicant for a retail location if the applicant holds a valid license
33 from the Department of Alcoholic Beverage Control for that same
34 location.

35 (c) The board shall provide electronic means for applicants to
36 download and submit applications.

37 (d) (1) ~~An initial~~ A license fee of one hundred dollars (\$100)
38 shall be submitted with each application *and application for*
39 *renewal*. An applicant that owns or controls more than one retail
40 location shall obtain a separate license for each retail location, *but*

1 *may submit a single application or application for renewal for*
2 *those licenses with a license fee of one hundred dollars (\$100) per*
3 *location. The fee shall not be prorated..*

4 ~~(2) The initial license fee required by this subdivision does not~~
5 ~~apply to an application for renewal of a license for a retail location~~
6 ~~for which the fee has already been paid. For renewal licenses, the~~
7 ~~fee shall be one hundred dollars (\$100). If a license is reinstated~~

8 *(2) If a license is reinstated after its expiration, the retailer, as*
9 *a condition precedent to its reinstatement, shall also pay a*
10 *reinstatement fee of one hundred dollars (\$100).*

11 *(e) An application for renewal shall be in the form as prescribed*
12 *by the board, which may include, but not be limited to, the name,*
13 *address, and telephone number of the applicant, business name,*
14 *address, and telephone number of each retail location, and any*
15 *other information as the board deems necessary for the proper*
16 *administration of this division.*

17 ~~SEC. 2.~~

18 *SEC. 3.* Section 22973.3 is added to the Business and
19 Professions Code, to read:

20 22973.3. (a) The number of licenses issued shall be limited to
21 one for each 2,500 persons, or fraction thereof, over 18 years of
22 age in the county in which the retail facilities are situated. No new
23 license shall be issued for a county in which the number of current
24 licenses is more than one for every 2,500 persons, or fraction
25 thereof, 18 years of age or older. Applications shall be granted, if
26 they meet the requirements of this chapter, in the order in which
27 they are received. The subdivision shall not preclude the renewal
28 of any existing license or the transfer of any existing license.

29 (b) In an area where the number of current licenses exceeds the
30 amount allowed by subdivision (a), an existing license may be
31 transferred only for the continued use at the same location upon
32 the sale or transfer of the business holding the license.

33 (c) (1) Notwithstanding subdivision (a), the State Board of
34 Equalization may issue a new license if the local governing body
35 of the area in which the applicant's premises are located, or its
36 designated subordinate officer or body, determines within 90 days
37 of notification of a completed application that public convenience
38 or necessity would be served by the issuance. The 90-day period
39 shall commence upon receipt by the local governing body of either
40 of the following:

1 (A) Notification by the State Board of Equalization of an
2 application for licensure

3 (B) A completed application according to local requirements,
4 if any, whichever is later.

5 (2) If the local governing body, or its designated subordinate
6 officer or body, does not make a determination within the 90-day
7 period, then the State Board of Equalization may issue a license
8 if the applicant shows the State Board of Equalization that public
9 convenience or necessity would be served by the issuance. In
10 making its determination, the State Board of Equalization shall
11 not attribute any weight to the failure of the local governing body,
12 or its designated subordinate officer or body, to make a
13 determination regarding public convenience or necessity within
14 the 90-day period.

15 *(d) This section shall not preempt a local jurisdiction from*
16 *adopting an ordinance that is more restrictive than this section*
17 *with regard to retailers.*